

1                   **MUNICIPAL AND COUNTY LAND USE AND DEVELOPMENT**

2                                   **REVISIONS**

3   2022 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Steve Waldrip**

6                                   Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

8 **General Description:**

9                   This bill revises provisions related to municipal and county land use development and  
10 management.  
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12 **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ modifies provisions related to when a person may challenge an annexation in
- 15 district court;
- 16                   ▶ modifies notice requirements after a municipality receives a request for
- 17 disconnection;
- 18                   ▶ modifies notice requirements related to an amendment to public improvements in a
- 19 subdivision or development;
- 20                   ▶ removes a prohibition on imposing a land use regulation under certain
- 21 circumstances;
- 22                   ▶ modifies evidence requirements related to a noncomplying structure or a
- 23 nonconforming use;
- 24                   ▶ authorizes a municipality or a county to determine if combining lots constitutes a
- 25 subdivision amendment;
- 26                   ▶ modifies the requirements for preparation of a subdivided plat by a surveyor;
- 27                   ▶ modifies provisions related to determining when a land use decision is illegal;



28           ▶ creates a process to establish an agreed boundary between landowners when a  
29 boundary is disputed or uncertain; and

30           ▶ makes technical changes.

31 **Money Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           None

35 **Utah Code Sections Affected:**

36 AMENDS:

37           **10-2-407**, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

38           **10-2-501**, as last amended by Laws of Utah 2021, Chapters 84 and 345

39           **10-9a-212**, as enacted by Laws of Utah 2012, Chapter 216

40           **10-9a-509**, as last amended by Laws of Utah 2021, Chapters 140 and 385

41           **10-9a-511**, as last amended by Laws of Utah 2018, Chapter 239

42           **10-9a-601**, as last amended by Laws of Utah 2021, Chapter 385

43           **10-9a-603**, as last amended by Laws of Utah 2021, Chapters 47, 162, and 345

44           **10-9a-608**, as last amended by Laws of Utah 2021, Chapter 385

45           **10-9a-801**, as last amended by Laws of Utah 2021, Chapter 385

46           **17-27a-212**, as enacted by Laws of Utah 2012, Chapter 216

47           **17-27a-508**, as last amended by Laws of Utah 2021, Chapters 140 and 385

48           **17-27a-510**, as last amended by Laws of Utah 2018, Chapter 239

49           **17-27a-601**, as last amended by Laws of Utah 2021, Chapter 385

50           **17-27a-603**, as last amended by Laws of Utah 2021, Chapters 47, 162, and 345

51           **17-27a-608**, as last amended by Laws of Utah 2021, Chapter 385

52           **17-27a-801**, as last amended by Laws of Utah 2021, Chapter 385

53           **57-1-45**, as last amended by Laws of Utah 2021, Chapter 385

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55 *Be it enacted by the Legislature of the state of Utah:*

56           Section 1. Section **10-2-407** is amended to read:

57           **10-2-407. Protest to annexation petition -- Planning advisory area planning**  
58 **commission recommendation -- Petition requirements -- Disposition of petition if no**

59 **protest filed.**

60 (1) A protest to an annexation petition under Section 10-2-403 may only be filed by:

61 (a) the legislative body or governing board of an affected entity;

62 (b) an owner of rural real property;

63 (c) for a proposed annexation of an area within a county of the first class, an owner of  
64 private real property that:

65 (i) is located in the unincorporated area within 1/2 mile of the area proposed for  
66 annexation;

67 (ii) covers at least 25% of the private land area located in the unincorporated area  
68 within 1/2 mile of the area proposed for annexation; and

69 (iii) is equal in value to at least 15% of all real property located in the unincorporated  
70 area within 1/2 mile of the area proposed for annexation; or

71 (d) an owner of private real property located in a mining protection area.

72 (2) Each protest under Subsection (1) shall:

73 (a) be filed:

74 (i) no later than 30 days after the municipal legislative body's receipt of the notice of  
75 certification under Subsection 10-2-405(2)(c)(i); and

76 (ii) (A) in a county that has already created a commission under Section 10-2-409, with  
77 the commission; or

78 (B) in a county that has not yet created a commission under Section 10-2-409, with the  
79 clerk of the county in which the area proposed for annexation is located;

80 (b) state each reason for the protest of the annexation petition and, if the area proposed  
81 to be annexed is located in a specified county, justification for the protest under the standards  
82 established in this chapter;

83 (c) if the area proposed to be annexed is located in a specified county, contain other  
84 information that the commission by rule requires or that the party filing the protest considers  
85 pertinent; and

86 (d) contain the name and address of a contact person who is to receive notices sent by  
87 the commission with respect to the protest proceedings.

88 (3) The party filing a protest under this section shall on the same date deliver or mail a  
89 copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

90 (4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:  
91 (a) immediately notify the county legislative body of the protest; and  
92 (b) deliver the protest to the boundary commission within five days after:  
93 (i) receipt of the protest, if the boundary commission has previously been created; or  
94 (ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the  
95 boundary commission has not previously been created.

96 (5) (a) If a protest is filed under this section:  
97 (i) the municipal legislative body may, at its next regular meeting after expiration of  
98 the deadline under Subsection (2)(a)(i), deny the annexation petition; or  
99 (ii) if the municipal legislative body does not deny the annexation petition under  
100 Subsection (5)(a)(i), the municipal legislative body may take no further action on the  
101 annexation petition until after receipt of the commission's notice of its decision on the protest  
102 under Section 10-2-416.

103 (b) If a municipal legislative body denies an annexation petition under Subsection  
104 (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of  
105 the denial in writing to:

- 106 (i) the contact sponsor of the annexation petition;
- 107 (ii) the commission; and
- 108 (iii) each entity that filed a protest.

109 (6) If no timely protest is filed under this section, the municipal legislative body may,  
110 subject to Subsection (7), approve the petition.

111 (7) Before approving an annexation petition under Subsection (6), the municipal  
112 legislative body shall hold a public hearing and provide notice of the public hearing:

113 (a) (i) at least seven days before the day of the public hearing, by posting one notice,  
114 and at least one additional notice per 2,000 population within the municipality and the area  
115 proposed for annexation, in places within that combined area that are most likely to give notice  
116 to the residents within, and the owners of real property located within, the combined area,  
117 subject to a maximum of 10 notices; or

118 (ii) at least 10 days before the day of the public hearing, by mailing the notice to each  
119 residence within, and to each owner of real property located within, the combined area  
120 described in Subsection (7)(a)(i);

121 (b) by posting notice on the Utah Public Notice Website, created in Section  
122 63A-16-601, for seven days before the day of the public hearing; and

123 (c) if the municipality has a website, by posting notice on the municipality's website for  
124 seven days before the day of the public hearing.

125 (8) (a) Subject to Subsection (8)(b), only a person or entity that is described in  
126 Subsection (1) has standing to challenge an annexation in district court.

127 (b) A person or entity described in Subsection (1) may only bring an action in district  
128 court to challenge an annexation if the person or entity has timely filed a protest as described in  
129 Subsection (2) and exhausted the administrative remedies described in this section.

130 Section 2. Section **10-2-501** is amended to read:

131 **10-2-501. Municipal disconnection -- Definitions -- Request for disconnection --**  
132 **Requirements upon filing request.**

133 (1) As used in this part "petitioner" means:

134 (a) one or more persons who:

135 (i) own title to real property within the area proposed for disconnection; and

136 (ii) sign a request for disconnection proposing to disconnect the area proposed for  
137 disconnection from the municipality; or

138 (b) the mayor of the municipality within which the area proposed for disconnection is  
139 located who signs a request for disconnection proposing to disconnect the area proposed for  
140 disconnection from the municipality.

141 (2) (a) A petitioner proposing to disconnect an area within and lying on the borders of a  
142 municipality shall file with that municipality's legislative body a request for disconnection.

143 (b) Each request for disconnection shall:

144 (i) contain the names, addresses, and signatures of the owners of more than 50% of any  
145 private real property in the area proposed for disconnection;

146 (ii) give the reasons for the proposed disconnection;

147 (iii) include a map or plat of the territory proposed for disconnection; and

148 (iv) designate between one and five persons with authority to act on the petitioner's  
149 behalf in the proceedings.

150 (3) Upon filing the request for disconnection, the petitioner shall publish notice of the  
151 request:

152 (a) (i) once a week for three consecutive weeks before the public hearing described in  
153 Section 10-2-502.5 in a newspaper of general circulation within the municipality; or

154 (ii) if there is no newspaper of general circulation in the municipality, at least three  
155 weeks before the day of the public hearing described in Section 10-2-502.5, by posting one  
156 notice, and at least one additional notice per 2,000 population of the municipality, in places  
157 within the municipality that are most likely to give notice to the residents within, and the  
158 owners of real property located within, the municipality, including the residents who live in the  
159 area proposed for disconnection; ~~[or]~~

160 ~~[(iii) at least three weeks before the day of the public hearing described in Section~~  
161 ~~10-2-502.5, by mailing notice to each residence within, and each owner of real property located~~  
162 ~~within, the municipality;]~~

163 (b) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks  
164 before the day of the public hearing described in Section 10-2-502.5;

165 (c) in accordance with the legal notice requirements described in Section 45-1-101, for  
166 three weeks before the day of the public hearing described in Section 10-2-502.5;

167 (d) by mailing notice to each:

168 (i) owner of real property located within the area proposed to be disconnected; and

169 (ii) residence within the area proposed to be disconnected;

170 (e) by delivering a copy of the request to the legislative body of the county in which the  
171 area proposed for disconnection is located; and

172 (f) if the municipality has a website, on the municipality's website for three weeks  
173 before the day of the public hearing.

174 Section 3. Section 10-9a-212 is amended to read:

175 **10-9a-212. Notice for an amendment to public improvements in a subdivision or**  
176 **development.**

177 ~~[Prior to]~~ Before implementing an amendment to adopted specifications for public  
178 improvements that apply to a subdivision or a development, a municipality shall ~~[give 30 days~~  
179 ~~mailed notice and an opportunity to comment to anyone who has requested the notice in~~  
180 ~~writing.];~~

181 (1) hold a public hearing;

182 (2) mail a notice 30 days or more before the date of the public hearing to:

- 183 (a) each person who has submitted a land use application for which the land use
- 184 authority has not issued a land use decision; and
- 185 (b) each person who makes a written request to receive a copy of the notice; and
- 186 (3) allow each person who receives a notice in accordance with Subsection (2) to
- 187 provide public comment in writing before the public hearing or in person during the public
- 188 hearing.

189 Section 4. Section **10-9a-509** is amended to read:

190 **10-9a-509. Applicant's entitlement to land use application approval --**

191 **Municipality's requirements and limitations -- Vesting upon submission of development**

192 **plan and schedule.**

193 (1) (a) (i) An applicant who has submitted a complete land use application as described

194 in Subsection (1)(c), including the payment of all application fees, is entitled to substantive

195 review of the application under the land use regulations:

- 196 (A) in effect on the date that the application is complete; and
- 197 (B) applicable to the application or to the information shown on the application.

198 (ii) An applicant is entitled to approval of a land use application if the application

199 conforms to the requirements of the applicable land use regulations, land use decisions, and

200 development standards in effect when the applicant submits a complete application and pays

201 application fees, unless:

202 (A) the land use authority, on the record, formally finds that a compelling,

203 countervailing public interest would be jeopardized by approving the application and specifies

204 the compelling, countervailing public interest in writing; or

205 (B) in the manner provided by local ordinance and before the applicant submits the

206 application, the municipality formally initiates proceedings to amend the municipality's land

207 use regulations in a manner that would prohibit approval of the application as submitted.

208 (b) The municipality shall process an application without regard to proceedings the

209 municipality initiated to amend the municipality's ordinances as described in Subsection

210 (1)(a)(ii)(B) if:

- 211 (i) 180 days have passed since the municipality initiated the proceedings; and
- 212 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
- 213 application as submitted.

214 (c) A land use application is considered submitted and complete when the applicant  
215 provides the application in a form that complies with the requirements of applicable ordinances  
216 and pays all applicable fees.

217 (d) A subsequent incorporation of a municipality or a petition that proposes the  
218 incorporation of a municipality does not affect a land use application approved by a county in  
219 accordance with Section 17-27a-508.

220 (e) The continuing validity of an approval of a land use application is conditioned upon  
221 the applicant proceeding after approval to implement the approval with reasonable diligence.

222 (f) A municipality may not impose on an applicant who has submitted a complete  
223 application a requirement that is not expressed in:

224 (i) this chapter;

225 (ii) a municipal ordinance; or

226 (iii) a municipal specification for public improvements applicable to a subdivision or  
227 development that is in effect on the date that the applicant submits an application.

228 (g) A municipality may not impose on a holder of an issued land use permit or a final,  
229 unexpired subdivision plat a requirement that is not expressed:

230 (i) in a land use permit;

231 (ii) on the subdivision plat;

232 (iii) in a document on which the land use permit or subdivision plat is based;

233 (iv) in the written record evidencing approval of the land use permit or subdivision  
234 plat;

235 (v) in this chapter; or

236 (vi) in a municipal ordinance.

237 (h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance  
238 of a certificate of occupancy or acceptance of subdivision improvements because of an  
239 applicant's failure to comply with a requirement that is not expressed:

240 (i) in the building permit or subdivision plat, documents on which the building permit  
241 or subdivision plat is based, or the written record evidencing approval of the land use permit or  
242 subdivision plat; or

243 (ii) in this chapter or the municipality's ordinances.

244 (i) A municipality may not unreasonably withhold issuance of a certificate of

245 occupancy where an applicant has met all requirements essential for the public health, public  
246 safety, and general welfare of the occupants, in accordance with this chapter, unless:

247 (i) the applicant and the municipality have agreed in a written document to the  
248 withholding of a certificate of occupancy; or

249 (ii) the applicant has not provided a financial assurance for required and uncompleted  
250 landscaping or infrastructure improvements in accordance with an applicable ordinance that the  
251 legislative body adopts under this chapter.

252 (2) A municipality is bound by the terms and standards of applicable land use  
253 regulations and shall comply with mandatory provisions of those regulations.

254 (3) A municipality may not, as a condition of land use application approval, require a  
255 person filing a land use application to obtain documentation regarding a school district's  
256 willingness, capacity, or ability to serve the development proposed in the land use application.

257 ~~[(4)(a) Except as provided in Subsection (4)(b), for a period of 10 years after the day  
258 on which a subdivision plat is recorded, a municipality may not impose on a building permit  
259 applicant for a single-family dwelling located within the subdivision any land use regulation  
260 that is enacted within 10 years after the day on which the subdivision plat is recorded.]~~

261 ~~[(b) Subsection (4)(a) does not apply to any changes in the requirements of the  
262 applicable building code, health code, or fire code, or other similar regulations.]~~

263 ~~[(5)]~~ (4) Upon a specified public agency's submission of a development plan and  
264 schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that  
265 subsection, the specified public agency vests in the municipality's applicable land use maps,  
266 zoning map, hookup fees, impact fees, other applicable development fees, and land use  
267 regulations in effect on the date of submission.

268 ~~[(6)]~~ (5) (a) If sponsors of a referendum timely challenge a project in accordance with  
269 Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use  
270 approval by delivering a written notice:

271 (i) to the local clerk as defined in Section 20A-7-101; and

272 (ii) no later than seven days after the day on which a petition for a referendum is  
273 determined sufficient under Subsection 20A-7-607(4).

274 (b) Upon delivery of a written notice described in Subsection ~~[(6)]~~ (5)(a) the following  
275 are rescinded and are of no further force or effect:

- 276 (i) the relevant land use approval; and
- 277 (ii) any land use regulation enacted specifically in relation to the land use approval.

278 Section 5. Section **10-9a-511** is amended to read:

279 **10-9a-511. Nonconforming uses and noncomplying structures.**

280 (1) (a) Except as provided in this section, a nonconforming use or noncomplying  
281 structure may be continued by the present or a future property owner.

282 (b) A nonconforming use may be extended through the same building, provided no  
283 structural alteration of the building is proposed or made for the purpose of the extension.

284 (c) For purposes of this Subsection (1), the addition of a solar energy device to a  
285 building is not a structural alteration.

286 (2) The legislative body may provide for:

287 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or  
288 substitution of nonconforming uses upon the terms and conditions set forth in the land use  
289 ordinance;

290 (b) the termination of all nonconforming uses, except billboards, by providing a  
291 formula establishing a reasonable time period during which the owner can recover or amortize  
292 the amount of his investment in the nonconforming use, if any; and

293 (c) the termination of a nonconforming use due to its abandonment.

294 (3) (a) A municipality may not prohibit the reconstruction or restoration of a  
295 noncomplying structure or terminate the nonconforming use of a structure that is involuntarily  
296 destroyed in whole or in part due to fire or other calamity unless the structure or use has been  
297 abandoned.

298 (b) A municipality may prohibit the reconstruction or restoration of a noncomplying  
299 structure or terminate the nonconforming use of a structure if:

300 (i) the structure is allowed to deteriorate to a condition that the structure is rendered  
301 uninhabitable and is not repaired or restored within six months after the day on which written  
302 notice is served to the property owner that the structure is uninhabitable and that the  
303 noncomplying structure or nonconforming use will be lost if the structure is not repaired or  
304 restored within six months; or

305 (ii) the property owner has voluntarily demolished a majority of the noncomplying  
306 structure or the building that houses the nonconforming use.

307 (c) (i) Notwithstanding a prohibition in the municipality's zoning ordinance, a  
308 municipality may permit a billboard owner to relocate the billboard within the municipality's  
309 boundaries to a location that is mutually acceptable to the municipality and the billboard  
310 owner.

311 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable  
312 location within 180 days after the day on which the owner submits a written request to relocate  
313 the billboard, the billboard owner may relocate the billboard in accordance with Subsection  
314 10-9a-513(2).

315 (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of  
316 legal existence for nonconforming uses, the property owner shall have the burden of  
317 establishing the legal existence of a noncomplying structure or nonconforming use through  
318 substantial evidence, which may not be limited to municipal or county records.

319 (b) Any party claiming that a nonconforming use has been abandoned shall have the  
320 burden of establishing the abandonment.

321 (c) Abandonment may be presumed to have occurred if:

322 (i) a majority of the primary structure associated with the nonconforming use has been  
323 voluntarily demolished without prior written agreement with the municipality regarding an  
324 extension of the nonconforming use;

325 (ii) the use has been discontinued for a minimum of one year; or

326 (iii) the primary structure associated with the nonconforming use remains vacant for a  
327 period of one year.

328 (d) The property owner may rebut the presumption of abandonment under Subsection  
329 (4)(c), and has the burden of establishing that any claimed abandonment under Subsection  
330 (4)(b) has not occurred.

331 (5) A municipality may terminate the nonconforming status of a school district or  
332 charter school use or structure when the property associated with the school district or charter  
333 school use or structure ceases to be used for school district or charter school purposes for a  
334 period established by ordinance.

335 Section 6. Section 10-9a-601 is amended to read:

336 **10-9a-601. Enactment of subdivision ordinance.**

337 (1) The legislative body of a municipality may enact ordinances requiring that a

338 subdivision plat comply with the provisions of the municipality's ordinances and this part  
339 before:

- 340 (a) the subdivision plat may be filed and recorded in the county recorder's office; and
- 341 (b) lots may be sold.

342 (2) If the legislative body fails to enact a subdivision ordinance, the municipality may  
343 regulate subdivisions only to the extent provided in this part.

344 (3) ~~[The]~~ Except as described in Subsection (4), joining of a lot or lots to a parcel does  
345 not constitute a subdivision as to the parcel or subject the parcel to the municipality's  
346 subdivision ordinance.

347 (4) A legislative body may adopt a land use regulation that specifies that combining  
348 lots is a subdivision amendment.

349 Section 7. Section **10-9a-603** is amended to read:

350 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**  
351 **acknowledgment, surveyor certification, and underground utility facility owner**  
352 **verification of plat -- Recording plat.**

353 (1) As used in this section:

354 (a) (i) "Facility owner" means the same as that term is defined in Section [73-1-15.5](#).

355 (ii) "Facility owner" includes a canal owner or associated canal operator contact  
356 described in:

357 (A) Section [10-9a-211](#);

358 (B) Subsection [73-5-7\(3\)](#); or

359 (C) Subsection (6)(c).

360 (b) "Local health department" means the same as that term is defined in Section  
361 [26A-1-102](#).

362 (c) "State engineer's inventory of canals" means the state engineer's inventory of water  
363 conveyance systems established in Section [73-5-7](#).

364 (d) "Underground facility" means the same as that term is defined in Section [54-8a-2](#).

365 (e) "Water conveyance facility" means the same as that term is defined in Section  
366 [73-1-15.5](#).

367 (2) Unless exempt under Section [10-9a-605](#) or excluded from the definition of  
368 subdivision under Section [10-9a-103](#), whenever any land is laid out and platted, the owner of

369 the land shall provide to the municipality in which the land is located an accurate plat that  
370 describes or specifies:

371 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in  
372 the county recorder's office;

373 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by  
374 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is  
375 intended to be used as a street or for any other public use, and whether any such area is  
376 reserved or proposed for dedication for a public purpose;

377 (c) the lot or unit reference, block or building reference, street or site address, street  
378 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length  
379 and width of the blocks and lots intended for sale;

380 (d) every existing right-of-way and recorded easement located within the plat for:

381 (i) an underground facility;

382 (ii) a water conveyance facility; or

383 (iii) any other utility facility; and

384 (e) any water conveyance facility located, entirely or partially, within the plat that:

385 (i) is not recorded; and

386 (ii) of which the owner of the land has actual or constructive knowledge, including  
387 from information made available to the owner of the land:

388 (A) in the state engineer's inventory of canals; or

389 (B) from a surveyor under Subsection (6)(c).

390 (3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the municipality's  
391 ordinances and this part and has been approved by the culinary water authority, the sanitary  
392 sewer authority, and the local health department, if the local health department and the  
393 municipality consider the local health department's approval necessary, the municipality shall  
394 approve the plat.

395 (b) Municipalities are encouraged to receive a recommendation from the fire authority  
396 and the public safety answering point before approving a plat.

397 (c) A municipality may not require that a plat be approved or signed by a person or  
398 entity who:

399 (i) is not an employee or agent of the municipality; or

- 400 (ii) does not:
- 401 (A) have a legal or equitable interest in the property within the proposed subdivision;
- 402 (B) provide a utility or other service directly to a lot within the subdivision;
- 403 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs
- 404 for the purpose of confirming the accuracy of the location of the easement or right-of-way in
- 405 relation to the plat; or
- 406 (D) provide culinary public water service whose source protection zone designated as
- 407 provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.
- 408 (d) A municipality shall:
- 409 (i) within 20 days after the day on which an owner of land submits to the municipality
- 410 a complete subdivision plat land use application, mail written notice of the proposed
- 411 subdivision to the facility owner of any water conveyance facility located, entirely or partially,
- 412 within 100 feet of the subdivision plat, as determined using information made available to the
- 413 municipality:
- 414 (A) from the facility owner under Section 10-9a-211, using mapping-grade global
- 415 positioning satellite units or digitized data from the most recent aerial photo available to the
- 416 facility owner;
- 417 (B) in the state engineer's inventory of canals; or
- 418 (C) from a surveyor under Subsection (6)(c); and
- 419 (ii) not approve the subdivision plat for at least 20 days after the day on which the
- 420 municipality mails to each facility owner the notice described in Subsection (3)(d)(i), in order
- 421 to receive any comments from each facility owner regarding:
- 422 (A) access to the water conveyance facility;
- 423 (B) maintenance of the water conveyance facility;
- 424 (C) protection of the water conveyance facility;
- 425 (D) safety of the water conveyance facility; or
- 426 (E) any other issue related to water conveyance facility operations.
- 427 (e) When applicable, the owner of the land seeking subdivision plat approval shall
- 428 comply with Section 73-1-15.5.
- 429 (f) A facility owner's failure to provide comments to a municipality in accordance with
- 430 Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the

431 subdivision plat.

432 (4) The municipality may withhold an otherwise valid plat approval until the owner of  
433 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and  
434 penalties owing on the land have been paid.

435 (5) (a) Within 30 days after approving a final plat under this section, a municipality  
436 shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for  
437 inclusion in the unified statewide 911 emergency service database described in Subsection  
438 63H-7a-304(4)(b):

439 (i) an electronic copy of the approved final plat; or

440 (ii) preliminary geospatial data that depict any new streets and situs addresses proposed  
441 for construction within the bounds of the approved plat.

442 (b) If requested by the Utah Geospatial Resource Center, a municipality that approves a  
443 final plat under this section shall:

444 (i) coordinate with the Utah Geospatial Resource Center to validate the information  
445 described in Subsection (5)(a); and

446 (ii) assist the Utah Geospatial Resource Center in creating electronic files that contain  
447 the information described in Subsection (5)(a) for inclusion in the unified statewide 911  
448 emergency service database.

449 (6) (a) A county recorder may not record a plat unless:

450 (i) prior to recordation, the municipality has approved and signed the plat;

451 (ii) each owner of record of land described on the plat has signed the owner's  
452 dedication as shown on the plat; and

453 (iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as  
454 provided by law.

455 (b) ~~[The surveyor making]~~ A surveyor who prepares the plat shall certify that the  
456 surveyor:

457 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
458 Professional Land Surveyors Licensing Act;

459 (ii) (A) has completed a survey of the property described on the plat in accordance with  
460 Section 17-23-17 and has verified all measurements; ~~[and]~~ or

461 (B) has referenced a record of survey map of the existing property boundaries shown

462 on the plat and verified the locations of the boundaries; and

463 (iii) has placed monuments as represented on the plat.

464 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a  
465 representative designated by the owner or operator, of an existing water conveyance facility  
466 located within the proposed subdivision, or an existing or proposed underground facility or  
467 utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's  
468 depiction of the:

469 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a  
470 public or private easement, or grants of record;

471 (B) location of the existing water conveyance facility, or the existing or proposed  
472 underground facility or utility facility; and

473 (C) physical restrictions governing the location of the existing or proposed  
474 underground facility or utility facility.

475 (ii) The cooperation of an owner or operator of a water conveyance facility,  
476 underground facility, or utility facility under Subsection (6)(c)(i):

477 (A) indicates only that the plat approximates the location of the existing facilities but  
478 does not warrant or verify their precise location; and

479 (B) does not affect a right that the owner or operator has under Title 54, Chapter 8a,  
480 Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law  
481 applicable to prescriptive rights, or any other provision of law.

482 (7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged,  
483 certified, and approved, the owner of the land seeking to record the plat shall, within the time  
484 period and manner designated by ordinance, record the plat in the county recorder's office in  
485 the county in which the lands platted and laid out are situated.

486 (b) A failure to record a plat within the time period designated by ordinance renders the  
487 plat voidable by the municipality.

488 (8) A municipality acting as a land use authority shall approve a condominium plat that  
489 complies with the requirements of Section 57-8-13 unless the condominium plat violates a land  
490 use regulation of the municipality.

491 Section 8. Section **10-9a-608** is amended to read:

492 **10-9a-608. Subdivision amendments.**

493 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a  
494 subdivision that has been laid out and platted as provided in this part may file a written petition  
495 with the land use authority to request a subdivision amendment.

496 (b) Upon filing a written petition to request a subdivision amendment under Subsection  
497 (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in  
498 accordance with Section 10-9a-603 that:

- 499 (i) depicts only the portion of the subdivision that is proposed to be amended;
- 500 (ii) includes a plat name distinguishing the amended plat from the original plat;
- 501 (iii) describes the differences between the amended plat and the original plat; and
- 502 (iv) includes references to the original plat.

503 (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide  
504 notice of the petition by mail, email, or other effective means to each affected entity that  
505 provides a service to an owner of record of the portion of the plat that is being vacated or  
506 amended at least 10 calendar days before the land use authority may approve the petition for a  
507 subdivision amendment.

508 (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a  
509 public hearing within 45 days after the day on which the petition is filed if:

- 510 (i) any owner within the plat notifies the municipality of the owner's objection in  
511 writing within 10 days of mailed notification; or
- 512 (ii) a public hearing is required because all of the owners in the subdivision have not  
513 signed the revised plat.

514 (e) A land use authority may not approve a petition for a subdivision amendment under  
515 this section unless the amendment identifies and preserves any easements owned by a culinary  
516 water authority and sanitary sewer authority for existing facilities located within the  
517 subdivision.

518 (2) The public hearing requirement of Subsection (1)(d) does not apply and a land use  
519 authority may consider at a public meeting an owner's petition for a subdivision amendment if:

- 520 (a) the petition seeks to:
  - 521 (i) join two or more of the petitioner fee owner's contiguous lots;
  - 522 (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not  
523 result in a violation of a land use ordinance or a development condition;

524 (iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the  
525 fee owners of each of the adjoining properties join in the petition, regardless of whether the  
526 properties are located in the same subdivision;

527 (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction  
528 imposed by the local political subdivision; or

529 (v) alter the plat in a manner that does not change existing boundaries or other  
530 attributes of lots within the subdivision that are not:

531 (A) owned by the petitioner; or

532 (B) designated as a common area; and

533 (b) notice has been given to adjoining property owners in accordance with any  
534 applicable local ordinance.

535 (3) A petition under Subsection (1)(a) that contains a request to amend a public street or  
536 municipal utility easement is also subject to Section [10-9a-609.5](#).

537 (4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or  
538 a portion of a plat shall include:

539 (a) the name and address of each owner of record of the land contained in the entire  
540 plat or on that portion of the plat described in the petition; and

541 (b) the signature of each owner described in Subsection (4)(a) who consents to the  
542 petition.

543 (5) (a) The owners of record of adjoining properties where one or more of the  
544 properties is a lot may exchange title to portions of those parcels if the exchange of title is  
545 approved by the land use authority in accordance with Subsection (5)(b).

546 (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if  
547 the exchange of title will not result in a violation of any land use ordinance.

548 (c) If an exchange of title is approved under Subsection (5)(b):

549 (i) a notice of approval shall be recorded in the office of the county recorder which:

550 (A) is executed by each owner included in the exchange and by the land use authority;

551 (B) contains an acknowledgment for each party executing the notice in accordance with  
552 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

553 (C) recites the legal descriptions of both the original properties and the properties  
554 resulting from the exchange of title; and

555 (ii) a document of conveyance shall be recorded in the office of the county recorder  
556 with an amended plat.

557 (d) A notice of approval recorded under this Subsection (5) does not act as a  
558 conveyance of title to real property and is not required in order to record a document conveying  
559 title to real property.

560 (6) (a) The name of a recorded subdivision may be changed by recording an amended  
561 plat making that change, as provided in this section and subject to Subsection (6)(c).

562 (b) The surveyor preparing the amended plat shall certify that the surveyor:

563 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
564 Professional Land Surveyors Licensing Act;

565 (ii) (A) has completed a survey of the property described on the plat in accordance with  
566 Section 17-23-17 and has verified all measurements; ~~and~~ or

567 (B) has referenced a record of survey map of the existing property boundaries shown  
568 on the plat and verified the locations of the boundaries; and

569 (iii) has placed monuments as represented on the plat.

570 (c) An owner of land may not submit for recording an amended plat that gives the  
571 subdivision described in the amended plat the same name as a subdivision in a plat already  
572 recorded in the county recorder's office.

573 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other  
574 document that purports to change the name of a recorded plat is void.

575 Section 9. Section 10-9a-801 is amended to read:

576 **10-9a-801. No district court review until administrative remedies exhausted --**

577 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**  
578 **-- Staying of decision.**

579 (1) No person may challenge in district court a land use decision until that person has  
580 exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and  
581 Variances, if applicable.

582 (2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may  
583 file a petition for review of a land use decision with the district court within 30 days after the  
584 decision is final.

585 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a

586 property owner files a request for arbitration of a constitutional taking issue with the property  
587 rights ombudsman under Section 13-43-204 until 30 days after:

588 (A) the arbitrator issues a final award; or

589 (B) the property rights ombudsman issues a written statement under Subsection

590 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

591 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional  
592 taking issue that is the subject of the request for arbitration filed with the property rights  
593 ombudsman by a property owner.

594 (iii) A request for arbitration filed with the property rights ombudsman after the time  
595 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

596 (3) (a) A court shall:

597 (i) presume that a land use regulation properly enacted under the authority of this  
598 chapter is valid; and

599 (ii) determine only whether:

600 (A) the land use regulation is expressly preempted by, or was enacted contrary to, state  
601 or federal law; and

602 (B) it is reasonably debatable that the land use regulation is consistent with this  
603 chapter.

604 (b) A court shall ~~[(i)]~~ presume that a final land use decision of a land use authority or  
605 an appeal authority is valid ~~;~~ and ~~(ii) uphold the land use decision]~~ unless the land use decision  
606 is:

607 ~~[(A)]~~ (i) arbitrary and capricious; or

608 ~~[(B)]~~ (ii) illegal.

609 (c) (i) A land use decision is arbitrary and capricious if the land use decision is not  
610 supported by substantial evidence in the record.

611 (ii) A land use decision is illegal if the land use decision ~~[is]~~:

612 (A) is based on an incorrect interpretation of a land use regulation; ~~[or]~~

613 (B) exceeds the authority granted by this title; or

614 ~~[(B)]~~ (C) is contrary to law.

615 (d) (i) A court may affirm or reverse a land use decision.

616 (ii) If the court reverses a land use decision, the court shall remand the matter to the

617 land use authority with instructions to issue a land use decision consistent with the court's  
618 ruling.

619 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality  
620 takes final action on a land use application, if the municipality conformed with the notice  
621 provisions of Part 2, Notice, or for any person who had actual notice of the pending land use  
622 decision.

623 (5) If the municipality has complied with Section 10-9a-205, a challenge to the  
624 enactment of a land use regulation or general plan may not be filed with the district court more  
625 than 30 days after the enactment.

626 (6) A challenge to a land use decision is barred unless the challenge is filed within 30  
627 days after the land use decision is final.

628 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to  
629 the reviewing court the record of the proceedings of the land use authority or appeal authority,  
630 including the minutes, findings, orders, and, if available, a true and correct transcript of the  
631 proceedings.

632 (b) If the proceeding was recorded, a transcript of that recording is a true and correct  
633 transcript for purposes of this Subsection (7).

634 (8) (a) (i) If there is a record, the district court's review is limited to the record provided  
635 by the land use authority or appeal authority, as the case may be.

636 (ii) The court may not accept or consider any evidence outside the record of the land  
637 use authority or appeal authority, as the case may be, unless that evidence was offered to the  
638 land use authority or appeal authority, respectively, and the court determines that the evidence  
639 was improperly excluded.

640 (b) If there is no record, the court may call witnesses and take evidence.

641 (9) (a) The filing of a petition does not stay the land use decision of the land use  
642 authority or appeal authority, as the case may be.

643 (b) (i) Before filing a petition under this section or a request for mediation or  
644 arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may  
645 petition the appeal authority to stay the appeal authority's land use decision.

646 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal  
647 authority's land use decision stayed pending district court review if the appeal authority finds

648 the order to be in the best interest of the municipality.

649 (iii) After a petition is filed under this section or a request for mediation or arbitration  
650 of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an  
651 injunction staying the appeal authority's land use decision.

652 (10) If the court determines that a party initiated or pursued a challenge to a land use  
653 decision on a land use application in bad faith, the court may award attorney fees.

654 Section 10. Section 17-27a-212 is amended to read:

655 **17-27a-212. Notice for an amendment to public improvements in a subdivision or**  
656 **development.**

657 [~~Prior to~~] Before implementing an amendment to adopted specifications for public  
658 improvements that apply to a subdivision or a development, a county shall ~~[give 30 days~~  
659 ~~mailed notice and an opportunity to comment to anyone who has requested the notice in~~  
660 ~~writing.];~~

661 (1) hold a public hearing;

662 (2) mail a notice 30 days or more before the date of the public hearing to:

663 (a) each person who has submitted a land use application for which the land use  
664 authority has not issued a land use decision; and

665 (b) each person who makes a written request to receive a copy of the notice; and

666 (3) allow each person who receives a notice in accordance with Subsection (2) to  
667 provide public comment in writing before the public hearing or in person during the public  
668 hearing.

669 Section 11. Section 17-27a-508 is amended to read:

670 **17-27a-508. Applicant's entitlement to land use application approval --**  
671 **Application relating to land in a high priority transportation corridor -- County's**  
672 **requirements and limitations -- Vesting upon submission of development plan and**  
673 **schedule.**

674 (1) (a) (i) An applicant who has submitted a complete land use application, including  
675 the payment of all application fees, is entitled to substantive review of the application under the  
676 land use regulations:

677 (A) in effect on the date that the application is complete; and

678 (B) applicable to the application or to the information shown on the submitted

679 application.

680 (ii) An applicant is entitled to approval of a land use application if the application  
681 conforms to the requirements of the applicable land use regulations, land use decisions, and  
682 development standards in effect when the applicant submits a complete application and pays all  
683 application fees, unless:

684 (A) the land use authority, on the record, formally finds that a compelling,  
685 countervailing public interest would be jeopardized by approving the application and specifies  
686 the compelling, countervailing public interest in writing; or

687 (B) in the manner provided by local ordinance and before the applicant submits the  
688 application, the county formally initiates proceedings to amend the county's land use  
689 regulations in a manner that would prohibit approval of the application as submitted.

690 (b) The county shall process an application without regard to proceedings the county  
691 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

692 (i) 180 days have passed since the county initiated the proceedings; and

693 (ii) the proceedings have not resulted in an enactment that prohibits approval of the  
694 application as submitted.

695 (c) A land use application is considered submitted and complete when the applicant  
696 provides the application in a form that complies with the requirements of applicable ordinances  
697 and pays all applicable fees.

698 (d) The continuing validity of an approval of a land use application is conditioned upon  
699 the applicant proceeding after approval to implement the approval with reasonable diligence.

700 (e) A county may not impose on an applicant who has submitted a complete  
701 application a requirement that is not expressed:

702 (i) in this chapter;

703 (ii) in a county ordinance; or

704 (iii) in a county specification for public improvements applicable to a subdivision or  
705 development that is in effect on the date that the applicant submits an application.

706 (f) A county may not impose on a holder of an issued land use permit or a final,  
707 unexpired subdivision plat a requirement that is not expressed:

708 (i) in a land use permit;

709 (ii) on the subdivision plat;

710 (iii) in a document on which the land use permit or subdivision plat is based;  
711 (iv) in the written record evidencing approval of the land use permit or subdivision  
712 plat;

713 (v) in this chapter; or  
714 (vi) in a county ordinance.

715 (g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a  
716 certificate of occupancy or acceptance of subdivision improvements because of an applicant's  
717 failure to comply with a requirement that is not expressed:

718 (i) in the building permit or subdivision plat, documents on which the building permit  
719 or subdivision plat is based, or the written record evidencing approval of the building permit or  
720 subdivision plat; or

721 (ii) in this chapter or the county's ordinances.

722 (h) A county may not unreasonably withhold issuance of a certificate of occupancy  
723 where an applicant has met all requirements essential for the public health, public safety, and  
724 general welfare of the occupants, in accordance with this chapter, unless:

725 (i) the applicant and the county have agreed in a written document to the withholding  
726 of a certificate of occupancy; or

727 (ii) the applicant has not provided a financial assurance for required and uncompleted  
728 landscaping or infrastructure improvements in accordance with an applicable ordinance that the  
729 legislative body adopts under this chapter.

730 (2) A county is bound by the terms and standards of applicable land use regulations and  
731 shall comply with mandatory provisions of those regulations.

732 (3) A county may not, as a condition of land use application approval, require a person  
733 filing a land use application to obtain documentation regarding a school district's willingness,  
734 capacity, or ability to serve the development proposed in the land use application.

735 ~~[(4)(a) Except as provided in Subsection (4)(b), for a period of 10 years after the day~~  
736 ~~on which a subdivision plat is recorded, a county may not impose on a building permit~~  
737 ~~applicant for a single-family dwelling located within the subdivision any land use regulation~~  
738 ~~that is enacted within 10 years after the day on which the subdivision plat is recorded.]~~

739 ~~[(b) Subsection (4)(a) does not apply to any changes in the requirements of the~~  
740 ~~applicable building code, health code, or fire code, or other similar regulations.]~~

741           ~~[(5)]~~ (4) Upon a specified public agency's submission of a development plan and  
742 schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that  
743 subsection, the specified public agency vests in the county's applicable land use maps, zoning  
744 map, hookup fees, impact fees, other applicable development fees, and land use regulations in  
745 effect on the date of submission.

746           ~~[(6)]~~ (5) (a) If sponsors of a referendum timely challenge a project in accordance with  
747 Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use  
748 approval by delivering a written notice:

749           (i) to the local clerk as defined in Section 20A-7-101; and

750           (ii) no later than seven days after the day on which a petition for a referendum is  
751 determined sufficient under Subsection 20A-7-607(4).

752           (b) Upon delivery of a written notice described in Subsection ~~[(6)]~~(5)(a) the following  
753 are rescinded and are of no further force or effect:

754           (i) the relevant land use approval; and

755           (ii) any land use regulation enacted specifically in relation to the land use approval.

756           Section 12. Section 17-27a-510 is amended to read:

757           **17-27a-510. Nonconforming uses and noncomplying structures.**

758           (1) (a) Except as provided in this section, a nonconforming use or a noncomplying  
759 structure may be continued by the present or a future property owner.

760           (b) A nonconforming use may be extended through the same building, provided no  
761 structural alteration of the building is proposed or made for the purpose of the extension.

762           (c) For purposes of this Subsection (1), the addition of a solar energy device to a  
763 building is not a structural alteration.

764           (2) The legislative body may provide for:

765           (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or  
766 substitution of nonconforming uses upon the terms and conditions set forth in the land use  
767 ordinance;

768           (b) the termination of all nonconforming uses, except billboards, by providing a  
769 formula establishing a reasonable time period during which the owner can recover or amortize  
770 the amount of his investment in the nonconforming use, if any; and

771           (c) the termination of a nonconforming use due to its abandonment.

772 (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying  
773 structure or terminate the nonconforming use of a structure that is involuntarily destroyed in  
774 whole or in part due to fire or other calamity unless the structure or use has been abandoned.

775 (b) A county may prohibit the reconstruction or restoration of a noncomplying structure  
776 or terminate the nonconforming use of a structure if:

777 (i) the structure is allowed to deteriorate to a condition that the structure is rendered  
778 uninhabitable and is not repaired or restored within six months after the day on which written  
779 notice is served to the property owner that the structure is uninhabitable and that the  
780 noncomplying structure or nonconforming use will be lost if the structure is not repaired or  
781 restored within six months; or

782 (ii) the property owner has voluntarily demolished a majority of the noncomplying  
783 structure or the building that houses the nonconforming use.

784 (c) (i) Notwithstanding a prohibition in the county's zoning ordinance, a county may  
785 permit a billboard owner to relocate the billboard within the county's unincorporated area to a  
786 location that is mutually acceptable to the county and the billboard owner.

787 (ii) If the county and billboard owner cannot agree to a mutually acceptable location  
788 within 180 days after the day on which the owner submits a written request to relocate the  
789 billboard, the billboard owner may relocate the billboard in accordance with Subsection  
790 [17-27a-512\(2\)](#).

791 (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal  
792 existence for nonconforming uses, the property owner shall have the burden of establishing the  
793 legal existence of a noncomplying structure or nonconforming use through substantial  
794 evidence, which may not be limited to municipal or county records.

795 (b) Any party claiming that a nonconforming use has been abandoned shall have the  
796 burden of establishing the abandonment.

797 (c) Abandonment may be presumed to have occurred if:

798 (i) a majority of the primary structure associated with the nonconforming use has been  
799 voluntarily demolished without prior written agreement with the county regarding an extension  
800 of the nonconforming use;

801 (ii) the use has been discontinued for a minimum of one year; or

802 (iii) the primary structure associated with the nonconforming use remains vacant for a

803 period of one year.

804 (d) The property owner may rebut the presumption of abandonment under Subsection  
805 (4)(c), and has the burden of establishing that any claimed abandonment under Subsection  
806 (4)(c) has not occurred.

807 (5) A county may terminate the nonconforming status of a school district or charter  
808 school use or structure when the property associated with the school district or charter school  
809 use or structure ceases to be used for school district or charter school purposes for a period  
810 established by ordinance.

811 Section 13. Section **17-27a-601** is amended to read:

812 **17-27a-601. Enactment of subdivision ordinance.**

813 (1) The legislative body of a county may enact ordinances requiring that a subdivision  
814 plat comply with the provisions of the county's ordinances and this part before:

815 (a) the subdivision plat may be filed and recorded in the county recorder's office; and  
816 (b) lots may be sold.

817 (2) If the legislative body fails to enact a subdivision ordinance, the county may  
818 regulate subdivisions only as provided in this part.

819 (3) ~~[The]~~ Except as described in Subsection (4), joining of a lot or lots to a parcel does  
820 not constitute a subdivision as to the parcel or subject the parcel to the county's subdivision  
821 ordinance.

822 (4) A legislative body may adopt a land use regulation that specifies that combining  
823 lots is a subdivision amendment.

824 Section 14. Section **17-27a-603** is amended to read:

825 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**  
826 **acknowledgment, surveyor certification, and verification of plat -- Recording plat.**

827 (1) As used in this section:

828 (a) (i) "Facility owner" means the same as that term is defined in Section **73-1-15.5**.

829 (ii) "Facility owner" includes a canal owner or associated canal operator contact  
830 described in:

831 (A) Section **17-27a-211**;

832 (B) Subsection **73-5-7(3)**; or

833 (C) Subsection (6)(c).

834 (b) "Local health department" means the same as that term is defined in Section  
835 26A-1-102.

836 (c) "State engineer's inventory of canals" means the state engineer's inventory of water  
837 conveyance systems established in Section 73-5-7.

838 (d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

839 (e) "Water conveyance facility" means the same as that term is defined in Section  
840 73-1-15.5.

841 (2) Unless exempt under Section 17-27a-605 or excluded from the definition of  
842 subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of  
843 the land shall provide to the county in which the land is located an accurate plat that describes  
844 or specifies:

845 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in  
846 the county recorder's office;

847 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by  
848 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is  
849 intended to be used as a street or for any other public use, and whether any such area is  
850 reserved or proposed for dedication for a public purpose;

851 (c) the lot or unit reference, block or building reference, street or site address, street  
852 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length  
853 and width of the blocks and lots intended for sale;

854 (d) every existing right-of-way and recorded easement located within the plat for:

- 855 (i) an underground facility;
- 856 (ii) a water conveyance facility; or
- 857 (iii) any other utility facility; and

858 (e) any water conveyance facility located, entirely or partially, within the plat that:

- 859 (i) is not recorded; and
- 860 (ii) of which the owner of the land has actual or constructive knowledge, including  
861 from information made available to the owner of the land:

- 862 (A) in the state engineer's inventory of canals; or
- 863 (B) from a surveyor under Subsection (6)(c).

864 (3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the county's

865 ordinances and this part and has been approved by the culinary water authority, the sanitary  
866 sewer authority, and the local health department, if the local health department and the county  
867 consider the local health department's approval necessary, the county shall approve the plat.

868 (b) Counties are encouraged to receive a recommendation from the fire authority and  
869 the public safety answering point before approving a plat.

870 (c) A county may not require that a plat be approved or signed by a person or entity  
871 who:

872 (i) is not an employee or agent of the county; or

873 (ii) does not:

874 (A) have a legal or equitable interest in the property within the proposed subdivision;

875 (B) provide a utility or other service directly to a lot within the subdivision;

876 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs  
877 for the purpose of confirming the accuracy of the location of the easement or right-of-way in  
878 relation to the plat; or

879 (D) provide culinary public water service whose source protection zone designated as  
880 provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

881 (d) A county shall:

882 (i) within 20 days after the day on which an owner of land submits to the county a  
883 complete subdivision plat land use application, mail written notice of the proposed subdivision  
884 to the facility owner of any water conveyance facility located, entirely or partially, within 100  
885 feet of the subdivision plat, as determined using information made available to the county:

886 (A) from the facility owner under Section 10-9a-211, using mapping-grade global  
887 positioning satellite units or digitized data from the most recent aerial photo available to the  
888 facility owner;

889 (B) in the state engineer's inventory of canals; or

890 (C) from a surveyor under Subsection (6)(c); and

891 (ii) not approve the subdivision plat for at least 20 days after the day on which the  
892 county mails to each facility owner the notice under Subsection (3)(d)(i) in order to receive any  
893 comments from each facility owner regarding:

894 (A) access to the water conveyance facility;

895 (B) maintenance of the water conveyance facility;

- 896 (C) protection of the water conveyance facility integrity;
- 897 (D) safety of the water conveyance facility; or
- 898 (E) any other issue related to water conveyance facility operations.
- 899 (e) When applicable, the owner of the land seeking subdivision plat approval shall
- 900 comply with Section [73-1-15.5](#).
- 901 (f) A facility owner's failure to provide comments to a county in accordance with
- 902 Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision
- 903 plat.
- 904 (4) The county may withhold an otherwise valid plat approval until the owner of the
- 905 land provides the legislative body with a tax clearance indicating that all taxes, interest, and
- 906 penalties owing on the land have been paid.
- 907 (5) (a) Within 30 days after approving a final plat under this section, a county shall
- 908 submit to the Utah Geospatial Resource Center, created in Section [63A-16-505](#), for inclusion in
- 909 the unified statewide 911 emergency service database described in Subsection
- 910 [63H-7a-304\(4\)\(b\)](#):
- 911 (i) an electronic copy of the approved final plat; or
- 912 (ii) preliminary geospatial data that depict any new streets and situs addresses proposed
- 913 for construction within the bounds of the approved plat.
- 914 (b) If requested by the Utah Geospatial Resource Center, a county that approves a final
- 915 plat under this section shall:
- 916 (i) coordinate with the Utah Geospatial Resource Center to validate the information
- 917 described in Subsection (5)(a); and
- 918 (ii) assist the Utah Geospatial Resource Center in creating electronic files that contain
- 919 the information described in Subsection (5)(a) for inclusion in the unified statewide 911
- 920 emergency service database.
- 921 (6) (a) A county recorder may not record a plat unless, subject to Subsection
- 922 [17-27a-604\(1\)](#):
- 923 (i) prior to recordation, the county has approved and signed the plat;
- 924 (ii) each owner of record of land described on the plat has signed the owner's
- 925 dedication as shown on the plat; and
- 926 (iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as

927 provided by law.

928 (b) ~~[The surveyor making]~~ A surveyor who prepares the plat shall certify that the  
929 surveyor:

930 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
931 Professional Land Surveyors Licensing Act;

932 (ii) (A) has completed a survey of the property described on the plat in accordance with  
933 Section 17-23-17 and has verified all measurements; ~~[and]~~ or

934 (B) has referenced a record of survey map of the existing property boundaries shown  
935 on the plat and verified the locations of the boundaries; and

936 (iii) has placed monuments as represented on the plat.

937 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a  
938 representative designated by the owner or operator, of an existing water conveyance facility  
939 located within the proposed subdivision, or an existing or proposed underground facility or  
940 utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's  
941 depiction of the:

942 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a  
943 public or private easement, or grants of record;

944 (B) location of the existing water conveyance facility, or the existing or proposed  
945 underground facility or utility facility; and

946 (C) physical restrictions governing the location of the existing or proposed  
947 underground facility or utility facility.

948 (ii) The cooperation of an owner or operator of a water conveyance facility,  
949 underground facility, or utility facility under Subsection (6)(c)(i):

950 (A) indicates only that the plat approximates the location of the existing facilities but  
951 does not warrant or verify their precise location; and

952 (B) does not affect a right that the owner or operator has under Title 54, Chapter 8a,  
953 Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law  
954 applicable to prescriptive rights, or any other provision of law.

955 (7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged,  
956 certified, and approved, the owner of the land seeking to record the plat shall, within the time  
957 period and manner designated by ordinance, record the plat in the county recorder's office in

958 the county in which the lands platted and laid out are situated.

959 (b) A failure to record a plat within the time period designated by ordinance renders the  
960 plat voidable by the county.

961 (8) A county acting as a land use authority shall approve a condominium plat that  
962 complies with the requirements of Section 57-8-13 unless the condominium plat violates a land  
963 use regulation of the county.

964 Section 15. Section 17-27a-608 is amended to read:

965 **17-27a-608. Subdivision amendments.**

966 (1) (a) A fee owner of a lot, as shown on the last county assessment roll, in a plat that  
967 has been laid out and platted as provided in this part may file a written petition with the land  
968 use authority to request a subdivision amendment.

969 (b) Upon filing a written petition to request a subdivision amendment under Subsection  
970 (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in  
971 accordance with Section 17-27a-603 that:

- 972 (i) depicts only the portion of the subdivision that is proposed to be amended;
- 973 (ii) includes a plat name distinguishing the amended plat from the original plat;
- 974 (iii) describes the differences between the amended plat and the original plat; and
- 975 (iv) includes references to the original plat.

976 (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide  
977 notice of the petition by mail, email, or other effective means to each affected entity that  
978 provides a service to an owner of record of the portion of the plat that is being amended at least  
979 10 calendar days before the land use authority may approve the petition for a subdivision  
980 amendment.

981 (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a  
982 public hearing within 45 days after the day on which the petition is filed if:

983 (i) any owner within the plat notifies the county of the owner's objection in writing  
984 within 10 days of mailed notification; or

985 (ii) a public hearing is required because all of the owners in the subdivision have not  
986 signed the revised plat.

987 (e) A land use authority may not approve a petition for a subdivision amendment under  
988 this section unless the amendment identifies and preserves any easements owned by a culinary

989 water authority and sanitary sewer authority for existing facilities located within the  
990 subdivision.

991 (2) The public hearing requirement of Subsection (1)(d) does not apply and a land use  
992 authority may consider at a public meeting an owner's petition for a subdivision amendment if:

993 (a) the petition seeks to:

994 (i) join two or more of the petitioning fee owner's contiguous lots;

995 (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not  
996 result in a violation of a land use ordinance or a development condition;

997 (iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the  
998 fee owners of each of the adjoining properties join the petition, regardless of whether the  
999 properties are located in the same subdivision;

1000 (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction  
1001 imposed by the local political subdivision; or

1002 (v) alter the plat in a manner that does not change existing boundaries or other  
1003 attributes of lots within the subdivision that are not:

1004 (A) owned by the petitioner; or

1005 (B) designated as a common area; and

1006 (b) notice has been given to adjoining property owners in accordance with any  
1007 applicable local ordinance.

1008 (3) A petition under Subsection (1)(a) that contains a request to amend a public street or  
1009 county utility easement is also subject to Section [17-27a-609.5](#).

1010 (4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or  
1011 a portion of a plat shall include:

1012 (a) the name and address of each owner of record of the land contained in:

1013 (i) the entire plat; or

1014 (ii) that portion of the plan described in the petition; and

1015 (b) the signature of each owner who consents to the petition.

1016 (5) (a) The owners of record of adjoining properties where one or more of the  
1017 properties is a lot may exchange title to portions of those properties if the exchange of title is  
1018 approved by the land use authority in accordance with Subsection (5)(b).

1019 (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if

1020 the exchange of title will not result in a violation of any land use ordinance.

1021 (c) If an exchange of title is approved under Subsection (5)(b):

1022 (i) a notice of approval shall be recorded in the office of the county recorder which:

1023 (A) is executed by each owner included in the exchange and by the land use authority;

1024 (B) contains an acknowledgment for each party executing the notice in accordance with  
1025 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

1026 (C) recites the legal descriptions of both the properties and the properties resulting  
1027 from the exchange of title; and

1028 (ii) a document of conveyance of title reflecting the approved change shall be recorded  
1029 in the office of the county recorder with an amended plat.

1030 (d) A notice of approval recorded under this Subsection (5) does not act as a  
1031 conveyance of title to real property and is not required to record a document conveying title to  
1032 real property.

1033 (6) (a) The name of a recorded subdivision may be changed by recording an amended  
1034 plat making that change, as provided in this section and subject to Subsection (6)(c).

1035 (b) The surveyor preparing the amended plat shall certify that the surveyor:

1036 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
1037 Professional Land Surveyors Licensing Act;

1038 (ii) (A) has completed a survey of the property described on the plat in accordance with  
1039 Section 17-23-17 and has verified all measurements; ~~and~~ or

1040 (B) has referenced a record of survey map of the existing property boundaries shown  
1041 on the plat and verified the locations of the boundaries; and

1042 (iii) has placed monuments as represented on the plat.

1043 (c) An owner of land may not submit for recording an amended plat that gives the  
1044 subdivision described in the amended plat the same name as a subdivision recorded in the  
1045 county recorder's office.

1046 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other  
1047 document that purports to change the name of a recorded plat is void.

1048 Section 16. Section 17-27a-801 is amended to read:

1049 **17-27a-801. No district court review until administrative remedies exhausted --**

1050 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**

1051 -- **Staying of decision.**

1052 (1) No person may challenge in district court a land use decision until that person has  
1053 exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and  
1054 Variances, if applicable.

1055 (2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may  
1056 file a petition for review of a land use decision with the district court within 30 days after the  
1057 decision is final.

1058 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a  
1059 property owner files a request for arbitration of a constitutional taking issue with the property  
1060 rights ombudsman under Section 13-43-204 until 30 days after:

1061 (A) the arbitrator issues a final award; or

1062 (B) the property rights ombudsman issues a written statement under Subsection  
1063 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

1064 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional  
1065 taking issue that is the subject of the request for arbitration filed with the property rights  
1066 ombudsman by a property owner.

1067 (iii) A request for arbitration filed with the property rights ombudsman after the time  
1068 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

1069 (3) (a) A court shall:

1070 (i) presume that a land use regulation properly enacted under the authority of this  
1071 chapter is valid; and

1072 (ii) determine only whether:

1073 (A) the land use regulation is expressly preempted by, or was enacted contrary to, state  
1074 or federal law; and

1075 (B) it is reasonably debatable that the land use regulation is consistent with this  
1076 chapter.

1077 (b) A court shall ~~[(i)]~~ presume that a final land use decision of a land use authority or  
1078 an appeal authority is valid ~~[, and (ii) uphold the land use decision]~~ unless the land use decision  
1079 is:

1080 ~~[(A)]~~ (i) arbitrary and capricious; or

1081 ~~[(B)]~~ (ii) illegal.

1082 (c) (i) A land use decision is arbitrary and capricious if the land use decision is not  
1083 supported by substantial evidence in the record.

1084 (ii) A land use decision is illegal if the land use decision [~~is~~]:

1085 (A) is based on an incorrect interpretation of a land use regulation; [~~or~~]

1086 (B) exceeds the authority granted by this title; or

1087 [~~(B)~~] (C) is contrary to law.

1088 (d) (i) A court may affirm or reverse a land use decision.

1089 (ii) If the court reverses a land use decision, the court shall remand the matter to the  
1090 land use authority with instructions to issue a land use decision consistent with the court's  
1091 decision.

1092 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes  
1093 final action on a land use application, if the county conformed with the notice provisions of  
1094 Part 2, Notice, or for any person who had actual notice of the pending land use decision.

1095 (5) If the county has complied with Section 17-27a-205, a challenge to the enactment  
1096 of a land use regulation or general plan may not be filed with the district court more than 30  
1097 days after the enactment.

1098 (6) A challenge to a land use decision is barred unless the challenge is filed within 30  
1099 days after the land use decision is final.

1100 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to  
1101 the reviewing court the record of the proceedings of the land use authority or appeal authority,  
1102 including the minutes, findings, orders and, if available, a true and correct transcript of the  
1103 proceedings.

1104 (b) If the proceeding was recorded, a transcript of that recording is a true and correct  
1105 transcript for purposes of this Subsection (7).

1106 (8) (a) (i) If there is a record, the district court's review is limited to the record provided  
1107 by the land use authority or appeal authority, as the case may be.

1108 (ii) The court may not accept or consider any evidence outside the record of the land  
1109 use authority or appeal authority, as the case may be, unless that evidence was offered to the  
1110 land use authority or appeal authority, respectively, and the court determines that the evidence  
1111 was improperly excluded.

1112 (b) If there is no record, the court may call witnesses and take evidence.

1113 (9) (a) The filing of a petition does not stay the land use decision of the land use  
1114 authority or appeal authority, as the case may be.

1115 (b) (i) Before filing a petition under this section or a request for mediation or  
1116 arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may  
1117 petition the appeal authority to stay the appeal authority's decision.

1118 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal  
1119 authority's decision stayed pending district court review if the appeal authority finds the order  
1120 to be in the best interest of the county.

1121 (iii) After a petition is filed under this section or a request for mediation or arbitration  
1122 of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an  
1123 injunction staying the appeal authority's land use decision.

1124 (10) If the court determines that a party initiated or pursued a challenge to a land use  
1125 decision on a land use application in bad faith, the court may award attorney fees.

1126 Section 17. Section 57-1-45 is amended to read:

1127 **57-1-45. Boundary line agreements.**

1128 (1) ~~[A boundary line]~~ An agreement to adjust [the boundaries of] a known boundary  
1129 between adjoining properties shall comply with Section 10-9a-524 or 17-27a-523, as  
1130 applicable.

1131 (2) A recorded boundary line agreement to establish the location of a boundary  
1132 between adjoining properties where the location of the boundary is ambiguous, uncertain, or  
1133 disputed shall comply with Subsections (3) and (4).

1134 (3) A boundary line agreement between adjoining property owners establishing the  
1135 owners' existing common boundary for the purpose of settling an ambiguity, uncertainty, or  
1136 dispute shall include:

1137 (a) the name and signature of each party to the agreement and, if applicable, the name  
1138 and signature of a party's predecessor in interest who agreed to the location of the boundary  
1139 line;

1140 (b) the date of the boundary line agreement;

1141 (c) the address of each party to the boundary line agreement for assessment purposes;

1142 (d) a statement describing why the owners of adjoining properties were unable to  
1143 determine the true location of the boundary line between the adjoining properties;

- 1144 (e) a statement that the owners of the adjoining properties agree on the boundary line  
1145 described in the boundary line agreement;
- 1146 (f) a legal description of each parcel or lot that is subject to the boundary line  
1147 agreement;
- 1148 (g) a legal description of the agreed boundary line;
- 1149 (h) (i) a reference to a record of survey map as defined in Section [17-23-17](#) in  
1150 conjunction with the boundary line agreement that shows:
- 1151 (A) existing dwellings, outbuildings, improvements, and other physical features;  
1152 (B) existing easements, rights-of-way, conditions, or restrictions recorded or apparent;  
1153 (C) the location of the agreed boundary line; and
- 1154 (D) an explanation in the survey narrative of the reason for the boundary line  
1155 agreement; or
- 1156 (ii) if the parcels or lots are unimproved, an attached exhibit depicting a graphical  
1157 representation of the location of the agreed boundary line relative to physical objects marking  
1158 the agreed boundary;
- 1159 (i) if any of the property that is the subject of the agreement is located in a recorded  
1160 subdivision and the agreed boundary line is different from the boundary line recorded in the  
1161 plat, an acknowledgment that each party to the agreement has been advised of the requirement  
1162 of a subdivision plat amendment; and
- 1163 (j) a sufficient acknowledgment for each party's signature.
- 1164 (4) A boundary line agreement described in Subsection (3) may not be:
- 1165 (a) used to adjust a known boundary described in Subsection (1) between adjoining  
1166 properties;
- 1167 (b) used to adjust a lot line in a recorded subdivision plat or create a new parcel or lot;  
1168 or
- 1169 (c) used by or recorded by a successor in interest to a property owner who agreed to the  
1170 boundary line unless the property owners who agreed to the boundary line treated the line as  
1171 the actual boundary as demonstrated by:
- 1172 (i) actual possession by each owner up to the boundary line;  
1173 (ii) a fence built and agreed to by each owner on the boundary line; or  
1174 (iii) each owner cultivating or controlling the land up to the boundary line.

- 1175           (5) A boundary line agreement described in Subsection (3):  
1176           (a) does not affect any previously recorded easement unless the easement is expressly  
1177 modified by the boundary line agreement;  
1178           (b) establishes the common boundary between the adjoining properties in the originally  
1179 intended location of the boundary line;  
1180           (c) affixes the ownership of the adjoining parties to the agreed boundary line;  
1181           (d) is not subject to the review or approval of a municipal or county land use authority;  
1182 and  
1183           (e) shall be indexed by a county recorder in the title record against each property  
1184 affected by the agreed boundary line.  
1185           (6) The recording of a boundary line agreement described in Subsection (3) does not  
1186 constitute a land use approval by a municipality or a county.  
1187           (7) A municipality or a county may withhold approval of a land use application for  
1188 property that is subject to a boundary line agreement described in Subsection (3) if the  
1189 municipality or the county determines that the land, as established by the boundary line  
1190 agreement, was not in compliance with the municipality's or the county's land use regulations  
1191 in effect on the day on which the boundary line agreement was recorded.  
1192           (8) If a judgment made by a court that establishes the location of a disputed boundary is  
1193 recorded in the county title record, the judgment shall act as a boundary line agreement  
1194 recorded under this section.